

PATENT
671308-2001.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : FUJIMORI, ET AL.
Serial No. : 10/782,899
For : ANAEROBIC BACTERIUM AS A DRUG FOR CANCER
GENE THERAPY
Filed : FEBRUARY 23, 2004
Examiner : WHITEMAN, BRIAN A.
Art Unit : 1635

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DECLARATION UNDER 37 C.F.R. §1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

We, Minoru FUJIMORI, Shunichiro TANIGUCHI, Jun AMANO, Kazuyuki YAZAWA, Yasunobu KANO, Toshiyuki NAKAMURA, and Takayuki SASAKI, hereby declare as follows:

1. That we are co-inventors of the subject matter described and claimed in the above-identified application.
2. The number of the inventors of this application and the number of the authors of Yazawa et al. allegedly do not match. Toshiyuki Nakamura and Takayuki Sasaki joined the project after the publication of Yazawa et al (March 26, 2000), and thus were not included as authors of Yazawa et al. Toshiyuki Nakamura and Takayuki Sasaki, along with co-inventors Minoru Fujimori, Shunichiro Taniguchi, Jun Amano, Kazuyuki Yazawa, and Yasunobu Kano, contributed to the invention of the instant specification that was not part of the Yazawa reference.
3. Therefore, the authors of Yazawa et al. and the inventors contributing to the part of the invention disclosed in Yazawa et al. are exactly the same and not "others" within the meaning of 35 U.S.C. §§102 and 103. Consequently, the so-called one year grace period applies to the present application regarding Yazawa et al., and the citations relating to 35 U.S.C. §§102 and 103 are irrelevant to the present application because of the one year grace period. In other words, Yazawa et al. cannot be used as prior art under the provisions of 35 U.S.C. §§102 or 103.
4. We further declare that all statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date: _____


Minoru FUJIMORI

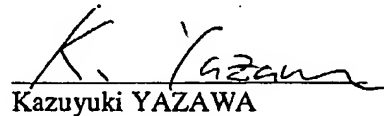
Date: _____


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